IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.6385 OF 2005.
IN
FIRST APPEAL ST.NO. 18100 OF 2005.

The Special Land Acquisition Officer
Metro Centre No.3, Panvel. ... Applicant.
Versus.
Pandharinath Babu Patil & others. ... Respondents.

Shri G.N.Gawade, A.G.P. for the Applicant.

Shri Sachin S.Punde for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 5th April, 2006.

P.C.:

1. Rule. The Respondents waive service. Taken up for hearing forthwith.

2. The learned A.G.P. submitted that usual order may be passed granting stay subject to deposit of the entire decretal amount within a period of 12 weeks with permission to withdraw the amoutn after furnishing the security to the satisfaction of the reference Court. The said prayer is opposed by the learned Advocate appearing for the Respondent. The impugned Award has been made under section 18 of the Land Acquisition Act, 1894 in respect of the land from village Valavali, Taluka Panvel, District Raigad, which was acquired for the purpose of Navi Mumbai project. The preliminary notification was issued on 4th February 1970. The Advocate for the Respondents pointed out that in the

First Appeal No.25 of 1993 by judgment dated 22nd April 2004 the learned Single Judge of this Court has fixed the market value at the rate of Rs.15/- per sq.meter in respect of a similarly situated land from the same village Valavali which was acquired for the same project. He pointed out that in the present case the market value awarded is at the rate of Rs.18/- per sq.meter. Considering the peculiar feature of the case and especially the decision of the learned Single Judge of this Court a sum equivalent to 25% of amount which may be deposited by the Applicant will have to be permitted to be withdrawn by the claimants without furnishing security.

3. Hence the following order is passed:

i) There will be interim relief in terms of prayer clause (b) subject to condition of the Applicant depositing the entire amount due and payable under the impugned Judgment and Award with the Reference Court within a period of 12 weeks from today. If the amount is not deposited within the stipulated time, the interim relief granted will stand vacated without reference to the Court.

ii) If the amount is deposited, the Reference Court

will permit the original Claimants to withdraw 25% of the amount subject to the Claimants filing an undertaking before the Reference Court to refund the said amount in the event the Applicant succeeds in this Appeal. The balance amount will be permitted to be withdrawn by the original Claimants on furnishing security to the satisfaction of the Reference Court.

iii) If the amount is not withdrawn by the original Claimants within a period of six months from the date of deposit with the Reference Court, the Reference Court will invest the same in fixed deposit with any nationalised bank initially for a period of three years and thereafter the fixed deposit will be renewed from year to year till final disposal of the First Appeal.

Judge.